

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

PABLO P. PIÑA,

Plaintiff,

v.

YSUSI, *et al.*,

Defendants.

Case No. 1:20-cv-01735-BAM (PC)

ORDER DENYING MOTION FOR  
RECONSIDERATION OF ORDER DENYING  
MOTION FOR PRELIMINARY  
INJUNCTION

(ECF No. 53)

**I. Background**

Plaintiff Pablo P. Piña (“Plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s first amended complaint against Defendant Ysusí for excessive force in violation of the Eighth Amendment and against Defendant J. Gonzales for retaliation in violation of the First Amendment. All parties have consented to Magistrate Judge jurisdiction. (ECF Nos. 36, 39.)

On September 30, 2022, Plaintiff filed a motion requesting a Court order that CDCR provide access to all legal materials/law books. (ECF No. 51.) As Plaintiff was requesting a Court order directing staff at California Correctional Institution (“CCI”) to take a specific action, the Court construed the motion as a request for a preliminary injunction, and the motion was denied. (ECF No. 52.) The Court explained that it lacked personal jurisdiction over any staff at CCI who are not parties to this action and are not alleged to have any involvement in the events

1 related to Plaintiff's claims against Defendants Ysusí and Gonzales. The Court further noted that  
2 it was unpersuaded by Plaintiff's argument that he required his legal materials because he is  
3 subject to discovery deadlines, as the deadline for completion of all discovery had expired by the  
4 time Plaintiff's motion was filed. (*Id.*)

5 Currently before the Court is Plaintiff's motion for reconsideration of the Court's order  
6 denying his motion for a court order, filed November 16, 2022. (ECF No. 53.) Although  
7 Defendants have not yet had the opportunity to file a response, the Court finds a response  
8 unnecessary. Plaintiff's motion is deemed submitted. Local Rule 230(l).

9 **II. Motion for Reconsideration**

10 **A. Legal Standard**

11 "A motion for reconsideration should not be granted, absent highly unusual  
12 circumstances, unless the district court is presented with newly discovered evidence, committed  
13 clear error, or if there is an intervening change in the controlling law," *Marlyn Nutraceuticals,*  
14 *Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 880 (9th Cir. 2009) (internal quotations marks  
15 and citations omitted), and "[a] party seeking reconsideration must show more than a  
16 disagreement with the Court's decision, and recapitulation . . ." of that which was already  
17 considered by the Court in rendering its decision, *U.S. v. Westlands Water Dist.*, 134 F. Supp. 2d  
18 1111, 1131 (E.D. Cal. 2001) (internal quotation marks and citation omitted). Federal Rule of  
19 Civil Procedure 60(b) governs the reconsideration of final orders of the district court. Rule 60(b)  
20 permits a district court to relieve a party from a final order or judgment on grounds of:  
21 "(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence . . .;  
22 (3) fraud . . . of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied . . .  
23 or (6) any other reason justifying relief from the operation of the judgment." Fed. R. Civ. P.  
24 60(b). Additionally, pursuant to this Court's Local Rules, when filing a motion for  
25 reconsideration of an order, a party must show "what new or different facts or circumstances are  
26 claimed to exist which did not exist or were not shown upon such prior motion, or what other  
27 grounds exist for the motion." Local Rule 230(j).

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1           **B. Discussion**

2           In his motion, Plaintiff argues that he was transferred from Kern Valley State Prison  
3 (“KVSP”) to CCI on September 12, 2022, and upon his arrival informed Officer Wilburn in R&R  
4 that he had a court deadline for September 18, 2022. (ECF No. 53.) However, prison staff  
5 ignored Plaintiff’s request for the property and his legal materials, thus denying Plaintiff the  
6 ability to prepare for his final discovery requests in this action. Officer Wilburn at CCI and  
7 Sergeant Hernandez at KVSP told Plaintiff that he must dispose of half of his legal materials  
8 because he had too much property, despite Plaintiff informing them that he has three active cases  
9 in court and is preparing to file another. Plaintiff argues that these officers are violating CDCR’s  
10 policies which allow inmates to have all legal material that pertains to active court cases. Plaintiff  
11 states that although the Court construed his motion as seeking an injunction, all Plaintiff is asking  
12 for is a court order that prison officials allow Plaintiff to pursue his legal actions. Plaintiff argues  
13 that denying his request for a court order allows Defendants and future CDCR defendants to  
14 impede inmates’ legal endeavors. Plaintiff contends that these officers and Defendants in this  
15 action are one and the same, because they all work for the same employer, CDCR, and are  
16 assisting each other, regardless of where they are working. Plaintiff again asks that the Court  
17 intervene and order CCI and CDCR to cease their unlawful tactics to impede Plaintiff’s legal  
18 action. (*Id.*)

19           Plaintiff’s motion for reconsideration presents merely his disagreement with the Court’s  
20 prior order, but fails to show any basis for reconsidering the Court’s decision. Although Plaintiff  
21 contends that he seeks “merely” a court order, such a court order would constitute preliminary  
22 injunctive relief, and was therefore appropriately considered under those legal standards.  
23 Plaintiff’s argument that all CDCR employees should be considered the same, merely because  
24 they are all employed by CDCR, is unpersuasive. As noted in the Court’s order denying  
25 Plaintiff’s request for a court order, the existence of this legal action does not give the Court  
26 jurisdiction over prison officials in general. *Summers v. Earth Island Inst.*, 555 U.S. 488, 491–93  
27 (2009); *Mayfield v. United States*, 599 F.3d 964, 969 (9th Cir. 2010). The fact that Officer  
28 Wilburn and Sergeant Hernandez are also employed by CDCR does not grant this Court

1 jurisdiction to order them to take any particular action or refrain from taking any particular action.

2 To the extent Plaintiff argues that his constitutional rights are being violated, he has other  
3 avenues of relief available to him, including filing a petition for writ of habeas corpus in state  
4 court. *E.g., People v. Brewer*, 235 Cal. App. 4th 122, 138, 185 Cal. Rptr. 3d 104, 114 (2015) (a  
5 California trial court may grant habeas corpus petitioners prospective relief to redress recurring,  
6 persistent deprivations of prisoners' rights at correctional facilities). The issue is not that  
7 Plaintiff's allegations are not serious or that he is not entitled to relief if sought in the proper  
8 forum. The issue is that this action cannot be used by Plaintiff obtain the relief he seeks. The  
9 seriousness of Plaintiff's allegations concerning lack of access to his legal materials and property  
10 cannot and do not overcome what is a jurisdictional bar. *Steel Co. v. Citizens for a Better  
11 Environment*, 523 U.S. 83, 103–04 (1998) ("[The] triad of injury in fact, causation, and  
12 redressability constitutes the core of Article III's case-or-controversy requirement, and the party  
13 invoking federal jurisdiction bears the burden of establishing its existence.")

14 Finally, the Court notes that Plaintiff has not addressed the issue raised in the Court's  
15 prior order regarding the timeliness of the discovery requests referenced by Plaintiff. Plaintiff's  
16 original motion for a court order was signed and dated September 25, 2022, after the September  
17 18, 2022 deadline for completion of all discovery. In that motion, Plaintiff notes that although he  
18 was transferred on September 12, 2022 without any of his property and legal materials, it was not  
19 until September 23, 2022 that he was told that he must dispose of much of his legal materials.  
20 (ECF No. 51, p. 1.) Plaintiff also has not specified the scope of the discovery requests he  
21 intended to serve or why he had not prepared them earlier, particularly in light of the Court's  
22 instruction that "discovery requests and deposition notices must be served sufficiently in advance  
23 of the discovery deadline to permit time for a response and time to prepare and file a motion to  
24 compel." (ECF No. 33, p. 2.) Even if Plaintiff had served discovery requests on Defendants  
25 between September 12, 2022 and September 18, 2022, this would not have permitted sufficient  
26 time for Defendants to prepare a response or for Plaintiff to file any necessary motion to compel.

27 If Plaintiff contends that he was otherwise prevented from serving his discovery requests  
28 before his September 12, 2022 transfer, this argument is more appropriately raised in a motion to

1 modify the discovery and scheduling order to extend the discovery deadline. In any such motion,  
2 Plaintiff should identify what good cause supports such a request, specify what discovery requests  
3 remain, and explain why he was prevented from serving his discovery requests in advance of the  
4 deadline.

5 To the extent Plaintiff argues that his lack of access to his legal materials and property has  
6 affected his ability to meet deadlines in other pending or future legal actions, those issues are not  
7 properly before the Court in the instant action.

8 **III. Conclusion and Order**

9 Based on the foregoing, Plaintiff has presented no legal basis for the Court to reconsider  
10 its denial of his motion for a court order, and therefore the motion for reconsideration, (ECF No.  
11 53), is HEREBY DENIED.

12 IT IS SO ORDERED.  
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14 Dated: November 18, 2022

15 /s/ Barbara A. McAuliffe  
16 UNITED STATES MAGISTRATE JUDGE

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